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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER

BEHNCKE, CHRISTINE M

ART UNIT	PAPER NUMBER
	3661

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/652,257	ADACHI, SHINYA	
	Examiner	Art Unit	
	Christine M. Behncke	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 December 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-44 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 29-32 and 40-43 is/are allowed.

6) Claim(s) 1-18,20-28,33-39 and 44 is/are rejected.

7) Claim(s) 19 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 August 2003 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

1. This office action is in response to the Amendment and Remarks filed 15 December 2005, in which claims 1-44 were presented for examination.

Terminal Disclaimer

2. The terminal disclaimer filed on 15 December 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,662,101 has been reviewed and is NOT accepted.

The person who signed the terminal disclaimer is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

It would be acceptable for a person, other than a recognized officer, to sign a terminal disclaimer, provided the record for the application includes a statement that the person is empowered to sign terminal disclaimers and/or act on behalf of the organization.

Accordingly, a new terminal disclaimer which includes the above empowerment statement will be considered to be signed by an appropriate official of the assignee. A separately filed paper referencing the previously filed terminal disclaimer and containing a proper empowerment statement would also be acceptable.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. **Claims 1-13** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 respectively, of U.S. Patent No. 6,662,101. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are broader and encompass the subject matter of the patented claims. Specifically the independent claim of the present invention lacks limitations regarding the event information claimed in the preamble.

5. **Claims 14-17** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-17 respectively, of U.S. Patent No. 6,662,101. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are broader and encompass the subject matter of the patented claims. Specifically the independent claim of the present invention lacks limitations regarding event information.

Response to Amendment

6. The Examiner acknowledges the amendments of **Claims 38 and 39** filed 15 December 2005 and withdraws the 35 USC 112, second paragraph, rejection previously applied.

Response to Arguments

7. Applicant's arguments filed 15 December 2005 have been fully considered but they are not persuasive. Regarding Claims 18, 20-28, 33-39 and 44, Applicant contends that the applied reference Ito (6,249,740) does not disclose or suggest "calculating a path connecting said selected nodes on the second digital map based on said coordinate information; and identifying position of said target road section on the second digital map based on the calculated path". Examiner respectfully disagrees. Ito et al. discloses a navigation base apparatus searching for a recommended route, a target road section of a map, transmitting select data of the recommended route to the vehicle apparatus, wherein the vehicle apparatus utilizes the transferred data to plot the geographical coordinates and connect a path between the coordinates of the road data for display (Column 17, lines 7-48 and Column 19, lines 47-58) and the path is identified on a simplified map, among other options, shown in Figure 16. Regarding Claims 33 and 38, Applicant contends that Ito does not disclose or suggest, "means for intermittently selecting node groups from points arranged on the target road section". The Examiner respectfully disagrees. Ito discloses the navigation base apparatus describes the recommended route by selection of a plurality of nodes along the route to describe the change-course positions and intermediate sections of route between

starting position and destination as shown in Figures 6 and 11. Regarding Claim 34, Applicant contends that Ito does not disclose or teach "means for intermittently selecting nodes from points arranged on the target road section in such manner that nodes are selected more thickly in the predetermined section than the other section of the target road section". The Examiner respectfully disagrees. Ito discloses selects nodes to describe the recommended route searched for by the navigation base apparatus, identifies intersections where there is a change of course, wherein near the course-change points nodes are selected to more precisely identify the surrounding area between points as shown in Figures 4, 6 and 7D.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18, 20-28, 33-39 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al., US Patent No. 6,249,740.

9. **(Claim 18)** Ito et al. discloses a method for identifying position of a target road section on a digital map, said method comprising the steps of: at a transmitting side having a first digital map (navigation base, database 150); creating position information of the target road section on a first digital map, wherein said position information

includes coordinate information of nodes selected from the target road section (Column 14, line 61- Column 15, line 1, figure 7B); sending said position information of the target road section (Column 14, lines 49-54); at a receiving side having a second digital map (vehicle navigation apparatus 100, data storage 103 and display 106), receiving said position information of the target road section (Column 19, lines 47-62); calculating a path connecting said selected nodes on the second digital map based on said coordinate information (Column 16, lines 21-36 and Column 19, lines 47-58); and identifying position of said target road section on the second digital map based on the calculated path (figure 11A, Column 9, lines 19-25 and Column 19, lines 47-58).

10. **(Claim 20)** Ito et al. further discloses wherein said nodes are intermittently selected from the target road (figure 11A and 6).

11. **(Claim 21)** Ito et al. discloses a method for identifying position of a target road section on a digital map, said method comprising the steps of: at a transmitting side having a first digital map (navigation base, database 150); creating position information of the target road section on a first digital map, wherein said position information includes nodes intermittently selected from said target road section and representing said target road section, coordinate information of the selected nodes (Column 14, line 61- Column 15, line 1, figures 6, 7B and 11A), and supplementary information (figures 2A and B); sending said position information of said target road section (Column 14, lines 49-54); at a receiving side having a second digital map (vehicle navigation apparatus 100, data storage 103 and display 106); receiving said position information of said target road section (Column 19, lines 47-62); calculating a path connecting the

selected nodes on a second digital map with referring to at least the supplementary information (plotting the node points and displaying the simplified map, Column 16, lines 21-36 and Column 19, lines 47-58); and identifying position of said target road section on the second digital map based on said calculated path (figure 11A, Column 9, lines 19-25 and Column 19, lines 47-58).

12. **(Claim 22)** Ito et al. further discloses wherein said position information includes a node on an intersection (figures 4 and 7C, course-change point at intersection Column 14, line 61- Column 15, line 6).

13. **(Claim 23)** Ito et al. further discloses wherein said position information includes a node on any points between intersections (figures 2B and 4, Column 12, lines 7-41).

14. **(Claim 24)** Ito et al. further discloses wherein said position information includes a node in the middle of distance between intersections or in the vicinity of the middle of distance between intersections (figures 4 and 6).

15. **(Claim 25)** Ito et al. further discloses wherein said supplementary information indicates attribute of the selected nodes (figures 2 and 7).

16. **(Claim 26)** Ito et al. further discloses wherein said supplementary information indicates attribute of a path between said selected nodes (Column 9, lines 19-25).

17. **(Claim 27)** Ito et al. further discloses wherein said attribute of nodes indicates any one of a road type, an intercept azimuth, a crossing link angle, and a road name at each node (Column 12, lines 33-49 and Column 11, lines 58-65).

18. **(Claim 28)** Ito et al. further discloses wherein said attribute of path indicates any one of a length and a road type, of the path (Column 9, lines 19-25 and figure 2A).

19. **(Claim 33)** Ito et al. discloses an apparatus for providing position information indicating a target road section on a digital map, said apparatus comprising: means for identifying a target road section on a digital map (route search program within system control section 152, Column 11, lines 32-36); means for intermittently selecting node groups from points arranged on the target road section (figure 11A and 6); means for obtaining coordinate information of the selected node groups (figure 7B); means for creating position information from the obtained coordinate information (Column 14, line 61- Column 15, line 1); and means for transmitting the position information (Column 14, lines 49-54, communication control section 151).

20. **(Claim 34)** Ito et al. discloses an apparatus for providing position information indicating a target road section on a digital map, said apparatus comprising: means for identifying a target road section on a digital map (recommended or searched route, figure 4); means for selecting a predetermined section from the target road section (course-change section of the recommended route, figure 4); means for intermittently selecting nodes from points arranged on the target road section in such manner that nodes are selected more thickly in the predetermined section than the other section of the target road section (Column 12, lines 33-41, figures 4, 6 and 7D, Column 15, lines 7-22); means for obtaining coordinate information of the selected nodes (figure 7 and Column 12, lines 33-49); means for creating position information from the obtained coordinate information (course-change and guidance information, Column 12, lines 33-49); and means for transmitting the position information (Column 15, lines 35-38).

21. **(Claim 35)** Ito et al. discloses an apparatus for identifying position of a target road section on a digital map at a receiving side based on position information on a digital map at a transmitting side (Column 19, lines 47-62), said apparatus comprising: means for determining position of nodes representing the target road section on the digital map at the receiving side based on the position information on the digital map at the transmitting side (location coordinates, figure 7A and 4, and Column 19, lines 47-57); means for calculating a path connecting the nodes (figure 11A, Column 9, lines 19-25 and Column 19, lines 47-58); means for identifying position of the road section on a digital map at a receiving side (location coordinates, Column 19, lines 47-65); means for reproducing the road section on a digital map at a receiving side (figure 9A and Column 16, lines 21-27 and Column 15, lines 22-29).

22. **(Claim 36)** Ito et al. discloses an apparatus for identifying position of a target road section represented by position information (figure 7), said apparatus comprising: means for determining position of nodes representing the target road section based on the position information (Column 11, lines 47-60 and Column 12, lines 33-41); means for calculating a path connecting the nodes (Column 11, lines 32-36 and lines 47-60); means for identifying position of the road section (Column 12, lines 33-41 and figures 2A and 7B); and means for reproducing the road section (figure 9A and Column 16, lines 21-27 and Column 15, lines 22-29); wherein said position identification means identifies the position of the target road section based on the coordinate information of at least one of the nodes included in the position information (Column 11, lines 32-60 and Column 12, lines 33-41).

23. **(Claim 37)** Ito et al. discloses an apparatus for identifying position of a target road section represented by position information (figure 7), said apparatus comprising: means for determining position of nodes representing the target road section based on the position information (Column 11, lines 47-60 and Column 12, lines 33-41); means for calculating a path connecting the nodes (Column 11, lines 32-36 and lines 47-60); means for identifying position of the road section (Column 12, lines 33-41 and figures 2A and 7B); and means for reproducing the road section (figure 9A and Column 16, lines 21-27 and Column 15, lines 22-29); wherein said position identification means identifies the position of the target road section based on the coordinate information of at least two of the nodes included in the position information (figures 4 and 11, Column 11, lines 32-60 and Column 12, lines 33-41).

24. **(Claim 38)** Ito et al. discloses a program product for creating and transmitting position information, said program product comprising a computer readable medium including therein a computer readable program code, said computer readable program code comprising: program code means for creating position information of a target road section on a first digital map (Column 9, lines 19-25 and figures 4 and 11), wherein said position information includes node groups intermittently selected from points of the target road section and representing the target road section (Column 9, lines 19-25 and figures 7 and 11); and program code means for transmitting said position information to a receiving side having a second digital map (Column 15, lines 22-29 and 35-38 and Column 16, lines 21-27).

25. **(Claim 39)** Ito et al. discloses a program product for receiving position information and identifying a position of a target road section represented by the position information, said program product comprising a computer readable medium including therein a computer readable program code, said computer readable program code comprising: program code means for receiving the position information including coordinate information of nodes selected from points arranged on the object on a first digital map (Column 9, lines 19-25, Column 15, lines 35-38 and figures 4 and 11); program means for calculating a path connecting the nodes (Column 16, lines 21-36 and Column 19, lines 47-58); program code means for identifying position of the object on a second digital map based on the coordinate information and the calculated path (figure 11A, Column 9, lines 19-25 and Column 19, lines 47-58).

26. **(Claim 44)** Ito et al. discloses a method for identifying a road section on a digital map on a receiving side with reference to location information on a digital map at a transmitting side (Column 19, lines 47-62), the method comprising the steps of: identifying plural points on the digital map at the receiving side with reference to the location information on the digital map at the transmitting side (location coordinates, Column 19, lines 47-57); calculating a path connecting the plural points on the digital map at the receiving side (figure 11A, Column 9, lines 19-25 and Column 19, lines 47-58); identifying the road section on the digital map at the receiving side based on the path (figures 11A and B, Column 19, lines 47-65).

Allowable Subject Matter

27. **Claim 19** is objected to as being dependent upon a rejected base claim and are at present considered to overcome the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

28. **Claims 29-32 and 40-43** are at present considered allowable.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

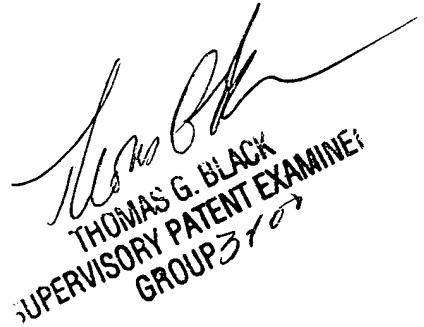
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine M. Behncke whose telephone number is (571) 272-8103. The examiner can normally be reached on Monday - Friday 8:30 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

03-04-06



THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3703